

902 KAR 47:060. Safety of toys and children's products.

RELATES TO: KRS 211.180

STATUTORY AUTHORITY: KRS Chapter 13B, 194.050, 211.090, 211.180, EO 96-862

NECESSITY, FUNCTION, AND CONFORMITY: KRS 194.050, 211.090 and 211.180 authorize the Cabinet for Health Services to adopt administrative regulations relating to all matters of public health including the detection, prevention, and control of home accidents and health hazards and the control of other factors, not assigned by law to another agency, as may be necessary to insure a safe environment, and administrative regulations for the protection and improvement of health of infants, preschool and school age children. The function of this administrative regulation is to establish uniform safety standards, labeling requirements, and testing procedures for toys and certain children's products. Executive Order 96-862, effective July 2, 1996, reorganizes the Cabinet for Human Resources and places the Department for Public Health and its programs under the Cabinet for Health Services.

Section 1. Safety Standards, Labeling Requirements, and Testing Procedures for Toys and Children's Products are governed by 16 Code of Federal Regulations (CFR) Parts 1501, 1505, 1508, 1509, 1510, 1511, and 1512 January 1, 1991 as specified in this section. The federal regulations specified in this section are adopted without change.

(1) 16 CFR Part 1501, Sections 1501.1 through 1501.4 - Methods for Identifying Toys and Other Articles Intended for Use by Children Under 3 Years of Age Which Present Choking, Aspiration, or Ingestion Hazards because of Small Parts.

(2) 16 CFR Part 1505, Sections 1505.1 through 1505.8 and 1505.50 - Requirements for Electrically Operated Toys or Other Electrically Operated Articles Intended for Use by Children.

(3) 16 CFR Part 1508, Sections 1508.1 through 1508.11 - Requirements for Full-size Baby Cribs.

(4) 16 CFR Part 1509, Sections 1509.1 through 1509.13 - Requirements for Nonfull-size Baby Cribs.

(5) 16 CFR Part 1510, Sections 1510.1 through 1510.4 - Requirements for Rattles.

(6) 16 CFR Part 1511, Sections 1511.1 through 1511.8 - Requirements for Pacifiers.

(7) 16 CFR Part 1512, Sections 1512.1 through 1512.20 and Sec. 1512.50 - Requirements for Bicycles.

Section 2. A copy of these federal regulations is on file in the Office of the Commissioner, Department for Public Health, 275 East Main Street, Frankfort, Kentucky 40621, and is available for public inspection and copying, Monday through Friday, 8 a.m. to 4:30 p.m. Copies of these federal regulations are also available from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

Section 3. Compliance. Toys and children's products which are in compliance with standards established in the federal regulations adopted without change in this administrative regulation, shall be deemed to be in compliance with this administrative regulation.

Section 4. Issuance and Service of Notice of Noncompliance. (1) If test procedures adopted without change by this administrative regulation reveal that toys and children's products are not in compliance with the standards set forth therein, the cabinet shall notify the owner of the violations in writing. The notification shall:

(a) Set forth the specific violations found;

(b) Establish a specific and reasonable period of time for the correction of the violations; and

(c) State that an opportunity for appeal from the notice of noncompliance shall be provided if a

written request for a hearing is filed with the cabinet within fifteen (15) days of receipt of the notice of noncompliance.

(2) A notice shall be deemed to have been properly served if it has been:

(a) Personally delivered to the owner of the manufacturing, wholesaling, or importing firm or person in charge; or if

(b) Sent by registered or certified mail, return receipt requested, to the last known address of the owner or person in charge.

(c) A copy of the notice shall be filed in the records of the cabinet.

Section 5. Hearings. If an appeal of a notice of noncompliance is filed as provided by Section 4 of this administrative regulation, the cabinet shall conduct a hearing in accordance with 902 KAR 1:400.

Section 6. Quarantine and Recall. (1) If a toy or children's product does not comply with the provisions of this administrative regulation, the manufacturer, distributor, or importer of the toy or children's product may be:

(a) Requested by the cabinet to voluntarily recall the toy or children's product from wholesale or retail establishments to which they were distributed; or

(b) Ordered by the cabinet to recall the toy or children's product.

(2) A toy or children's product that does not comply with the provisions of this administrative regulation may be quarantined by the cabinet.

(3) If a toy or children's product is recalled, the cabinet shall be provided with:

(a) A copy of the recall notification;

(b) A list of all establishments contacted;

(c) The amount or number of toys or children's products returned to the manufacturer, distributor or importer; and

(d) The disposition of the toys or children's products recalled. (12 Ky.R. 1463; eff. 3-4-86; Am. 18 Ky.R. 1449; eff. 1-10-92; 22 Ky.R. 2477; eff. 8-1-96.)